REMARKS

In the Office Action, Claims 27-34 and 78-103 were rejected over the prior art as discussed below. In this Amendment, Claims 27, 78-82, 89-91, 95-97, 99 and 102 have been amended, Claims 104-106 have been added, and no claims have been canceled. Accordingly, Claims 27-34 and 78-106 remain pending for further consideration.

Discussion of One Non-Limiting Embodiment

The specification describes a catheter 18 for repairing a heart valve suffering from valvular regurgitation. The repair can be performed while the heart is beating. The catheter 18 has a procedure zone (including leaflet immobilization supports 22, 23) and a distal portion that comprises an anchor zone AZ, as illustrated in Figure 9.

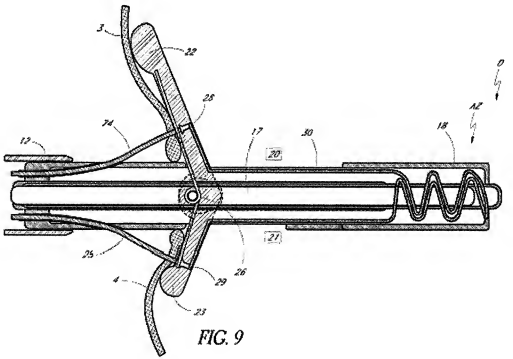


FIG. 9

The catheter 18 orients leaflet immobilization supports 22, 23, which, as illustrated above, are asymmetric in some embodiments (e.g., one longer than the other) to interact optimally with the asymmetric configuration of the mitral valve. The catheter 18 is advantageous in that it permits the supports 22, 23 to be positioned to capture the center of the anterior mitral valve leaflet and the center scallop of the three scallops of the posterior mitral valve leaflet if used to repair a mitral valve. The catheter 18 also avoids entanglement with chordae tendinae, which extend across the

left ventricle interconnecting the mitral valve leaflets and the papillary muscles, as the catheter traverses the left ventricle. A curled distal tip, as in Cribier (discussed below), is useless for this purpose and would in fact become entangled in the chordae.

The catheter 18 must traverse a tight curve that includes a bend of more than 90 degrees, e.g., about 120 degrees, if passed through the mitral valve into the left ventricle and thereafter into or through the left ventricular outflow tract into the aorta. This tight curve is illustrated in Figure 3 in connection with an orientation catheter 11 that is used in some techniques, and which traverses the very same bend traversed by the catheter 18 for this application. This positioning provides a suitable angle of approach for the catheter 18 to grasp the posterior leaflet of the mitral valve, which can be difficult to catch, if the catheter is used in a mitral valve repair.

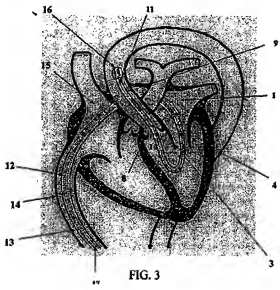


FIG. 3

After delivery through the mitral valve and into the left ventricle, a distal portion of the catheter 18, e.g., the anchor zone AZ, engages the left ventricular outflow tract and/or a wall of the aorta. This engagement with the left ventricular outflow tract or aorta and the tightly curved configuration of the catheter 18 after traversing path provide a fulcrum about which the catheter can be manipulated to orient and position the procedure zone. This fulcrum provides the operator with sufficient leverage to manipulate the procedure zone in a plurality of directions and degrees of freedom such that the leaflet immobilization supports 22, 23 can be positioned and oriented adjacent to the corresponding leaflets 3, 4. As a result, mitral valve 3, 4 of a beating heart can be captured and a procedure to address valvular regurgitation can be performed through the valve.

Rejections Under 35 U.S.C. § 112

Claims 27-34 and 78-91 were rejected under 35 U.S.C. § 112. Although Applicants respectfully disagree with the rejection, Claims 27, 78-82, and 89-91 have been amended to further prosecution. Support for the amendments can be found in Figure 3 (shown above), for example, reproduced below, and paragraphs [0045], [0048], [0072] and [0073].

Paragraph [0045] of the specification as published and Figure 3 describe the tortuous path referenced above that the orientation catheter 11 takes if delivered via the inferior vena cava 14 to the ascending aorta 9. This tortuous path proceeds from the inferior vena cava 14 into the right atrium 15, trans-septally into the left atrium 1, then between the anterior leaflet 3 and posterior leaflet 4 leaflet of the mitral valve into the ventricle in one technique. As discussed above, the catheter 11 and the catheter 18 are described as traversing this tight curve and thereafter proceeding into the left ventricular outflow tract 10 and, potentially, through the aortic valve 8 into the ascending aorta 9. The Specification states, for example at ¶ [0049] that "[i]n one embodiment, the orientation catheter once in place in the ascending aorta may be removed over a guide wire and the device Housing Catheter 18 advanced over the wire until its distal end is in the ascending aorta."

The foregoing illustrates that the distal portion of the catheter 18 can traverse the same path as the guide wire, including the tight curve greater than 90 degrees, and can be positioned in the left ventricle outflow tract and in the aortic root in various embodiments. For the foregoing reasons, Applicants respectfully request that the § 112, first paragraph rejection be withdrawn.

Rejections Under 35 U.S.C. § 103

In the Office Action, the claims were rejected as obvious in view of two distinct embodiments of U.S. Patent No. 6,165,183 issued to Kuehn et al. (Kuehn) as combined with U.S. Patent No. 4,777,951 issued to Cribier et al. (Cribier). These rejections will be addressed in turn.

Rejection Based on Figure 23 of Kuehn

Claims 27 and 92-101 were rejected as being obvious over Figure 23 of Kuehn in view of Cribier. Applicants disagree with this rejection and respectfully traverses for the reasons stated below.

Kuehn Figure 23

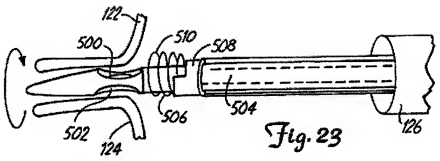


Fig. 23

In connection with Figure 23, reproduced above, Kuehn discloses a fastener applicator which draws the valve leaflets 122 and 124 into cavities 500 and 502 with suction provided by a vacuum generated in lumen 504. Kuehn 10:26-35. After the leaflets 122 and 124 are drawn into the cavities 500 and 502, the spring 506 "is pushed and rotated using rotating shaft 508" such that the spring 506 spirals through the leaflets 122, 124 and fastens the leaflets 122, 124 together. Id.

Applicants agree with the statement that "Kuehn fails to teach wherein the anchor zone is elongate and flexible and configured to bend at least 90 degrees to extend at least into an anatomical region adjoining the heart valve." Office Action, p. 6. However, Applicants submit that Kuehn fails to teach any anchor zone whatsoever that would be configured to orient and anchor the Kuehn device.

Figure 23 of Kuehn fails to teach any anchor zone that is configured to orient and anchor the catheter. As illustrated in Figure 23, reproduced above on a preceding page, the portion distal the cavities 500, 502 is short and extends only in the vicinity of the leaflets 122, 124. Kuehn fails to disclose any function for the short distal portion and in particular makes no suggestion that an any anchoring beyond the cavities 500, 502 would serve any purpose. Moreover, it is not clear how the short distal portion would be used to orient and anchor the catheter.

Moreover, Kuehn as a whole teaches that any structure to position the tissue manipulators relative to the valve leaflets should be located proximally of the tissue manipulators. For example, in Figure 20, Kuehn teaches that the structure to position the graspers 440 relative to the valve leaflets should be located proximally of the graspers 440. In particular, the plungers 446, 454 are used to bring the leaflets into engagement with the graspers 440. Kuehn states that

"as plunger 446 or 454 reaches a certain position relative to graspers 440 so that graspers 440 are within reach of leaflets 122, 124, shaft 456 is pulled back to retract graspers 440, which clasp leaflets 122, 124 between graspers 440 and grasper tube 441." Kuehn at 9:61-65. Thus, Kuehn teaches locating proximally of the graspers 440 a structure for bringing the graspers 440 into a position in which the graspers 440 engage the leaflets. Kuehn expresses no reason to add another structure distal of the graspers 440 that would engage the heart or a vessel to provide an orienting or anchoring function because the valve leaflets will be gripped between the proximal plungers 446, 454 and the graspers 440.

In addition, because Kuehn teaches towards using a proximally located mechanism for bringing the graspers 440 into engagement with the valve leaflets, a person of ordinary skill in the art looking to improve on the positioning feature would be led by Kuehn to consider alternative plunger-like features designed to directly engage the valve leaflets from a proximal location, i.e., a location that would be within the atrium. Therefore, Kuehn teaches away from any structure placed distally of the leaflets that would be useful for orienting and anchoring the Kuehn device.

The Office Action also asserts that in Kuehn the portion distal the cavities 500, 502 inherently has sufficient rigidity for the device to work. *See* Office Action, p. 5. Applicants have amended Claim 27 and respectfully submit that the portion distal the cavities 500, 502 is not inherently configured to orient and anchor Kuehn's device. However, as discussed above, Kuehn ascribes no function to the distal portion, and therefore, it is unclear what properties can be found in a distal portion without any explicit function. Because the doctrine of inherency requires that an alleged inherent feature *necessarily always* be present (see, e.g., M.P.E.P. § 2112 (citing *In re Robertson*, 169 F.3d 743, 745, (Fed. Cir. 1999))), the assertion that this distal portion is sufficiently rigid or that it is capable of anchoring the Kuehn device is improper. One need only consider the teachings of Cribier to make distal portions very soft to recognize that the portion of the Kuehn device distal of the cavities 500, 502 could not be said to inherently (necessarily always) have such properties.

Cribier

Cribier is directed to an aortic valvuloplasty catheter instrument 10 for removing calcified deposits on the aortic valve leaflets. Applicants disagree that, in the context of the claims as a whole, one skilled in the art would consider the teachings of Cribier to be relevant to the devices disclosed in Kuehn. For example, as discussed above, Kuehn Figure 23 is directed to a device that is used to bring and fasten together valve leaflets, whereas Cribier's device has exactly the opposite goal, i.e., the expand and push apart the leaflets. These differences suggest that these references are not necessarily compatible.

Moreover, even if these differences were overlooked, the claims would not be rendered obvious. The instrument 10 includes a flexible distal tip portion 20 and a dilatation balloon 22 that is inserted through the aortic valve and inflated therein. The tip portion 20 is described as being "very flexible" and being "able *to conform* to the contours of the ventricle to which it is exposed." Cribier at12:22-24 (emphasis added). As shown in Figure 9, the distal portion 20 of the catheter 10 is curved to rest inside the curved walls of the ventricle, while avoiding or minimizing contact therewith.

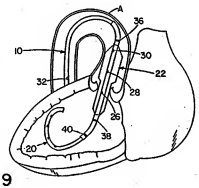


FIG 9

The Examiner asserts that the flexible distal tip portion 20 corresponds to Applicants' anchor zone. See Office Action, page 4. However, the tip portion 20 is not disclosed as having or being capable of this function. Instead the tip portion 20 is for measuring pressure and delivering a contrast agent, while being atraumatic. See Cribier at 11:14-20. To perform these functions, the distal tip 20 would not have to be capable of performing an anchoring function, e.g., enabling positioning or orienting of the catheter 10. As discussed further below, the tip portion 20 specifically described as being the most flexible part of the catheter 10 and the tip portion would

be incapable of acting as an anchor zone. Moreover, it would be inconsistent with the teachings of Cribier to modify it to have the properties of an anchor zone, e.g., to stabilize the catheter 10.

For example, the tip portion 20 is required to be soft and flexible to avoid trauma to the heart. Where stiffness is required for positioning or orientation, Cribier teaches to not stiffen the distal portion. For example, Cribier states that the catheter 10 "may include a fourth lumen containing a rod, e.g., of metal or plastic, to provide additional stiffness and torqueability of the catheter over its length to the distal end of the balloon, while not affecting the soft tip." Cribier at 14:40-44. Cribier shows such an embodiment in Figures 15-15c, in which a rod 60 is positioned in a blind lumen, which ends proximal of the distal portion 20. This arrangement would preserve the softness of the distal tip portion 20. See Cribier at 14:53-54. Cribier also more generally states a preference for only making the proximal portion stiff enough to position the balloon 22. See Cribier at 4:21-43. Thus, like Kuehn, Cribier teaches away from providing any feature for orienting or anchoring a catheter distal of a procedure zone.

Also, though Cribier discusses the need to be atraumatic, the use of the distal portion 20 for orienting or anchoring would result in severe trauma. In particular, the use of the flexible distal tip portion of Cribier's device for orienting and anchoring the catheter, rather than for measuring pressure and delivering contrast agents, could cause severe trauma to the patient. The preset curvature of Cribier's distal tip portion allows the distal tip portion to reside entirely within the left ventricle in an atraumatic fashion when the distal tip portion is held relatively still. However, rotation or movement of the curved distal tip portion to orient and anchor a catheter could cause the curved distal tip portion to course through the chordae and cause the chordae to be torn. Torn chordae can lead to torrential mitral regurgitation and death.

For the reasons set forth above, a combination of the very soft tip portion 20 of Cribier with the very short tip portion distal of the cavities 500, 502 in the device of Figure 23 of Kuehn would be improper and would not provide all of the limitations of Claim 27 as amended. Additionally, stiffening the very soft tip of Cribier such that it could have orienting or anchoring capability would be contrary to teachings of Cribier. For at least these reasons, the rejection of the claims as obvious is improper.

Accordingly, Applicants respectfully traverse the rejection to Claim 27 and submit that Claim 27 is in condition for allowance. Claims 92-101 depend from Claim 27 and are patentable

for at least the same reasons set forth above for Claim 27. In addition, Claims 92-101 are patentable for the unique combination of features recited therein, for at least the reasons set forth below.

Kuehn Does Not Disclose Asymmetric Tissue Manipulators

Claim 97 as amended recites in part that "the first tissue manipulator is asymmetric to the second tissue manipulator." Claim 98 recites in part that "the first tissue manipulator is longer than the second tissue manipulator." These features are described in connection with various embodiments at least in Figure 8 and paragraph [0019].

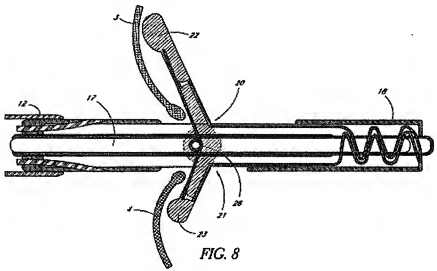


FIG. 8

The Office Action asserts that Kuehn teaches that "the first (500) and second (502) tissue manipulators are asymmetric (Fig. 23)," and that "the first manipulator (500) is longer than the second manipulator (502, Fig. 23)." Office Action, p. 6. Applicants respectfully disagree.

Based on a visual inspection of Figure 23, the cavities 500 and 502 appear to have the same shape, for example having the same length along the longitudinal axis of the device.

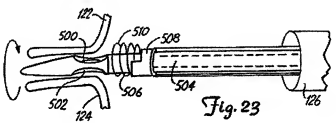


Fig. 23

Kuehn does not describe the width of the cavities 500, 502 and the width is not discernable from the drawings. There is no indication in Kuehn that the drawings are to scale. Thus, the cavities

500, 502 do not disclose or suggest these features of Claims 97 and 98. *See, e.g.,* M.P.E.P. 2125 (noting that Moreover, "proportions of features in a drawing are not evidence of actual proportions when drawings are not to scale"). Thus, Kuehn does not that the cavities 500, 502 are either asymmetric to each other that one is longer than the other.

Accordingly, for at least the reasons set forth above, Applicants respectfully traverse the rejections to Claims 97 and 98 and submit that Claims 97 and 98 are in condition for allowance.

Kuehn Does Not Disclose An Elongate Body Housing a Fastening Material

Claim 92 recites in part that the "elongate flexible body is configured to house a fastening material." Claim 95 recites in part that "the fastening material is at least partially housed within the tissue manipulator." This is illustrated in connection with various embodiments in Figure 9, reproduced below. Figure 9 shows that the elongate body of the catheter 18 houses the fastening material 30 and that the fastening material 30 is partially housed partially within the tissue manipulators 22 and 23.

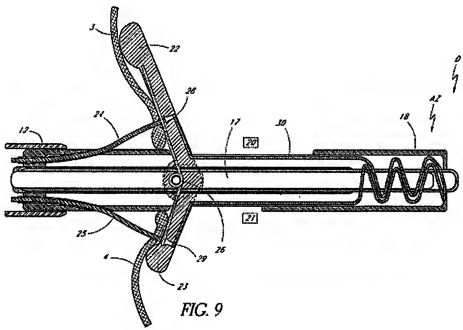


FIG. 9

The Office Action asserts that Kuehn discloses in connection with Figure 23 that the "fastening material (510) is at least partially housed within the tissue manipulator (508 encompasses the tissue manipulator, 504, therefore it is considered within the tissue manipulator)." Office Action, p. 5.

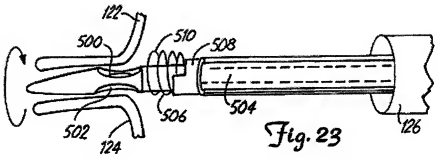


Fig. 23

However, the Office Action also asserts that cavities 500 and 502 are tissue manipulators. See Office Action, p. 5-6. Nevertheless, no portion of the spring 506 is "housed within" either of the cavities 500 and 502 or the lumen 504. To the contrary, the spring 506 is outside of the lumen 504 and the cavities 500, 502, wrapped around an exterior portion of the device. Thus Figure 23 does not disclose or suggest the limitations of either Claim 92 or 95. Accordingly, Applicants respectfully traverse the rejection to Claims 92 and 95 and submit that Claims 92 and 95 are in condition for allowance.

Kuehn Does Not Disclose A Needle Capturing Device

Claim 94 recites in part that the catheter further comprises "at least one needle capturing device coupled with an end of the fastening material." The Office Action asserts in connection with Figure 23 that "there is at least one needle capturing device coupled with an end of the fastening material (510 is needle)." Office Action, p. 5. However, even if the end 510 of the spring 506 is a needle, Figure 23 does not disclose any needle capturing device. Figure 23 is reproduced below.

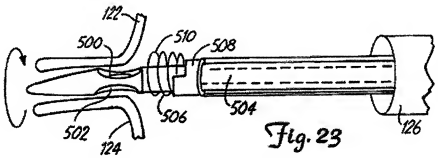


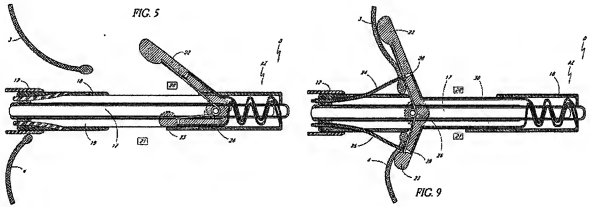
Fig. 23

The end 510 of the spring 506 is not enclosed or captured by any portion of the device of Kuehn. Instead, the end 510 of the spring 506 is threaded into the leaflets 122, 124 upon rotation

of the shaft 508. Accordingly, Applicants respectfully traverse the rejection and submit that Claim 94 is in condition for allowance.

Kuehn Does Not Disclose A Fastening Material At Least Partially Located Distal of A Tissue Manipulator

Claim 96 as amended recites in part that "the fastening material is at least partially located distal of the tissue manipulator when carried on the flexible body." This is illustrated by at least one embodiment in the specification and in Figures 5 and 9, reproduced below, where the fastening material 30 is at least partially located distal of the tissue manipulators 22, 23 when carried on the flexible body.



The Office Action asserts that the "fastening material (506) is at least partially located distal of the tissue manipulator (col. 10, ll. 35, after the lumen 504 is withdrawn the fastening material is distal to the tissue manipulator)." Office Action, p. 6. The rejection is apparently based on the location of the spring 506 after the Kuehn device is removed from the body. Even if true, Claim 96 as amended recites "the fastening material is at least partially located distal of the tissue manipulator when carried on the flexible body." Accordingly, Applicants respectfully request that the rejection to Claim 96 be withdrawn and submit that Claim 96 is in condition for allowance.

Kuehn Does Not Disclose Receptacles For Receiving Fixating Members

Claim 99 as amended recites in part a catheter comprising "a first receptacle located within the first tissue manipulator for receiving a first fixating member." Claim 100 recites in part a catheter as in Claim 99 further comprising "a second receptacle located within the second

tissue manipulator for receiving a second fixating member." Claim 101 recites in part a catheter as in Claim 100 where "a first end of a fastening material is coupled with the first receptacle and a second end of the fastening material is coupled with the second receptacle." This is illustrated in connection with one embodiment shown in Figure 9, reproduced below, which shows a first receptacle 28 located within the first tissue manipulator 22 for receiving a first fixating member 24, a second receptacle 29 located within the second tissue manipulator 23 for receiving a second fixating member 25, and that a first end of a fastening material 30 is coupled with the first receptacle 28 and a second end of the fastening material is coupled with the second receptacle 29.

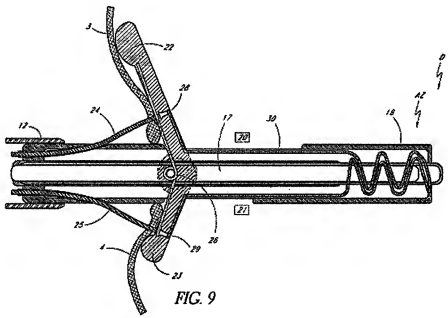


FIG. 9

The Office Action asserts that Figure 23, reproduced below, discloses that the "first tissue manipulator (500) comprises a receptacle located within the first tissue manipulator (hole in 500) receives a first fixating member (122, Fig. 23)" and that the "second tissue manipulator (502) comprises a receptacle located within the [second] tissue manipulator (hole in 502) receives a [second] fixating member (124, Fig. 23)" and that a "first end of a fastening material (506) is coupled with the first receptacle (hole in 500) and a second end of the fastening material (proximal end of 506) is coupled with the second receptacle." Office Action, p. 6.

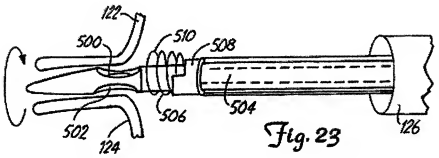


Fig. 23

Kuehn does not disclose receptacle for receiving a fixating member. Instead, Kuehn discloses that the cavities 500 and 502 draw in valve leaflets 122 and 124 by use of suction. Kuehn 10:26-35. Furthermore, no part of the spring 506 is coupled with either cavity 500 and 502. Instead, the spring 506 is threaded through the valve leaflets 122 and 124, apparently *over* the cavities 500, 502. According, Applicants respectfully traverse the rejections to Claims 99-101 and submit that Claims 99-101 are in condition for allowance.

Rejection Based on Figure 20 of Kuehn

Claims 27-29, 31-34, 78-84, 86-91, 102, and 103 were rejected as being obvious in view of Kuehn Figure 20 and Cribier. Claims 30 and 85 were rejected as being obvious over the combination of Kuehn and Cribier and further as a matter of design choice. Applicants respectfully disagree with these rejections for at least the reasons set forth below.

Claims 27 and 82

Applicants respectfully submit that Kuehn and Cribier fail to teach an anchoring zone and that the combination of Kuehn and Cribier is improper for at least the reasons previously discussed above and additionally for the reason set forth below.

Kuehn Figure 20

Kuehn is directed to a device for heart valve repair in connection with Figures 20-21 (reproduced below) that includes a gripper 438 with a plunger 446 that is used to direct leaflets of the valve to gripper arms or "graspers" 440. The graspers 440 are mounted on a grasper tube 441.

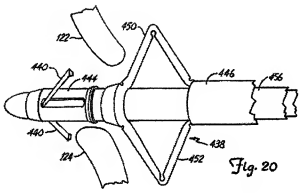


Fig. 20

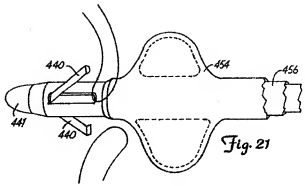


Fig. 21

The Examiner asserts that the grasper tube 441 is an "anchor zone," but concedes that "Kuehn fails to teach wherein the anchor zone is elongate and flexible and configured to bend at least 90 degrees to extend at least into an anatomical region adjoining the heart valve." Office Action, page 3. Applicants disagree that Kuehn discloses any sort of anchor zone located distally of a tissue manipulator, as set forth in Claim 27. In fact, Kuehn teaches away from locating any structure distal of the graspers 440 that would interact with tissue so as to provide any positioning or orienting capabilities.

Moreover, as discussed above, Kuehn teaches that any structure to position the graspers 440 relative to the valve leaflets should be located proximally of the graspers 440. In particular, the plungers 446, 454 are used to bring the leaflets into engagement with the graspers 440. Kuehn states that "as plunger 446 or 454 reaches a certain position relative to graspers 440 so that graspers 440 are within reach of leaflets 122, 124, shaft 456 is pulled back to retract graspers 440, which clasp leaflets 122, 124 between graspers 440 and grasper tube 441." Kuehn at 9:61-65. Thus, Figures 20 and 21 of Kuehn teach locating proximally of the graspers 440 a structure that is for bringing the graspers 440 into a position in which the graspers 440 engage the leaflets. Kuehn expresses no reason to add another structure distal of the graspers 440 that would engage the heart or a vessel to provide an orienting or anchoring function because the valve leaflets will be held between the proximal plungers 446, 454 and the graspers 440.

In addition, because Kuehn teaches using a proximally located mechanism for bringing the graspers 440 into engagement with valve leaflets, a person of ordinary skill in the art looking to improve on the orienting or anchoring feature would naturally consider alternative plunger-like features designed to directly engage the valve leaflets from a proximal location, i.e., within the

atrium. Therefore, Kuehn teaches away from an anchor zone for orienting or anchoring the device that is placed distally of a tissue manipulator.

The Office Action also asserts that in Kuehn the portion distal the graspers 440 inherently has sufficient rigidity for the device to work. Office Action, p. 3. Applicants have amended Claim 27 and respectfully submit that the portion distal the graspers 440 does not inherently meet the limitations of Claim 27. Moreover, as discussed above, Kuehn ascribes no function to portion of the grasper tube 441 distal the graspers 440, and therefore, it is unclear what properties can be found in such a distal portion without any explicit function. Because the doctrine of inherency requires that an alleged inherent feature *necessarily always* be present (see, e.g., M.P.E.P. § 2112 (citing *In re Robertson*, 169 F.3d 743, 745, (Fed. Cir. 1999))), the assertion that this distal portion is sufficiently rigid or that it is capable of anchoring the Kuehn device is improper.

Cribier

As discussed above, Cribier fails to teach an anchoring zone and the combination of Kuehn and Cribier is improper.

Accordingly, for at least the reasons set forth above, Applicants respectfully assert that independent Claims 27 and 82 are patentable over the combination of Kuehn and Cribier and are in condition for allowance. 27-29, 31-34, 78-84, 86-91, 102, and 103Claims 28-34 and 78-81 depend from Claim 27 and Claims 83-91, 102 and 103 depend from Claim 82. Therefore, Claims 28-24, 78-81, and 83-91, 102 and 103 are patentable for at least the reasons set forth above for Claims 27 and 82. In addition, Claims 28-24, 78-81, and 83-91, 102 and 103 are patentable for the unique combination of features recited therein. Furthermore, Claims 102 and 103 are patentable for the reasons set forth below.

Claims 102 and 103

Claim 102 has been amended to expedite prosecution. Claim 102 recites in part that "the first tissue manipulator is asymmetric to the second tissue manipulator." Claim 103 recites in part that "the first tissue manipulator is longer than the second tissue manipulator." See Figure 8, reproduced below.

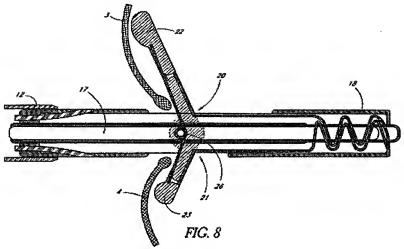


FIG. 8

With respect to Claims 102 and 103, the Office Action asserts that Kuehn teaches that "the first and second tissue manipulators (440) are asymmetric" and that "the first tissue manipulator is longer than the second tissue manipulator (see Figure 20). Office Action, p. 4. Applicants respectfully disagree. See Kuehn Figure 20, reproduced below.

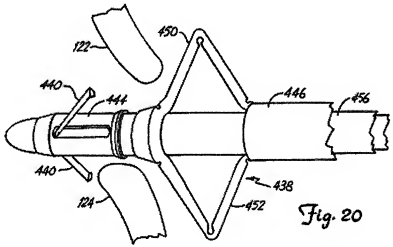


Fig. 20

Figure 20 suggests that the graspers 440 are mirror images of each other and appear to be of the same length. Moreover, proportions of features in a drawing are not evidence of actual proportions when drawings are not to scale. *See* M.P.E.P. 2125. There is no indication in Kuehn that the drawings are to scale, nor is there any indication in the specification that the graspers 440 are of different length or are asymmetric. Also, the graspers are not described in Kuehn as having different lengths or being asymmetric. Therefore, Kuehn does not disclose these limitations of Claims 102 and 103 Accordingly, for at least the reasons set forth above,

Applicants respectfully traverse the rejections to Claims 102 and 103 and submit that Claims 102 and 103 are in condition for allowance.

Claims 104-106

Newly added Claims 104-106 depend from Claim 27 and are patentable for at least the reasons set forth above. In addition, Claims 104-106 are patentable for the unique combination of features recited therein.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, issuance of a Notice of Allowance is most earnestly solicited.

Applicants respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby. Any arguments in support of patentability and based on a portion of a claim should not be taken as

founding patentability solely on the portion in question; rather, it is the combination of features or acts recited in a claim which distinguishes it over the prior art.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney, Andrew M. Douglas at (949) 721-7623 to resolve such issue(s) promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 21, 2008

By: 

Andrew M. Douglas
Registration No. 51,212
Attorney of Record
Customer No. 20,995
(949) 760-0404

4332769 // 092707